THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.2413 OF 2007

DATED: 13-03-2007

BETWEEN

Penumatcha Hare Rama Raju,
S/o. Krishnam Raju, Occ: Business,
R/o. D.No.28-1-22, Muthyalampadu,
Vijayawada, Krishna District.

...PETITIONER

AND

The Commissioner for Prohibition & Excise,
Government of Andhra Pradesh,
Hyderabad and others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the second respondent in not considering the application of the petitioner dated 02.01.2007 submitted on 03.01.2007 for establishment of a bar and restaurant in the name and style of M/s. Sri Anu Krishna Restaurant and Bar at premises bearing D.No.21-8-81A, Muthyalampadu, Near Government Press, Vijayawada as illegal and arbitrary and consequently direct the respondents 2 and 3 to consider his application forthwith.

2. Learned Government Pleader appearing for the respondents submits that the application filed by the petitioner on 03.01.2007 was not brought to the notice of the Prohibition and Excise Superintendent, Vijayawada till 12.02.2007 by A5 Clerk - Sri J. Rambabu, who suppressed the said record and he is absconding from duties for one week and therefore, appropriate disciplinary action has been initiated against the said clerk.

3. The Prohibition and Excise Superintendent addressed a letter dated 12.02.2007 to the Government Pleader stating that the writ petitioner connived with A5 clerk and misrepresented the High Court with malafides.

4. I am of the opinion that the said remarks of the third respondent are without any justification whatsoever as the question of the petitioner conniving with A5 clerk to misplace the records does not arise, as the grievance of the petitioner itself is that the third respondent is not considering his application. When this Court issued notice before admission on 09.02.2007, on telephonic instructions, the learned Government Pleader stated that the office of the third respondent has received no such application of the petitioner but the inward register goes to show that the application of the petitioner has been received on 03.01.2007. The third respondent throws the entire blame on A5 clerk though he is equally responsible for not considering the application of the petitioner.

5. However, now that it has been admitted that the application of the petitioner has been received on 03.01.2007, which has been filed within 45 days, the said period expires on 12.02.2007, from the date of obtaining prior clearance from the Commissioner, Prohibition and Excise i.e. on 27.12.2006, the third respondent shall consider and dispose the same if all other conditions prescribed under the relevant rules are fulfilled without insisting upon the prior clearance of the first respondent.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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V. ESWARAIAH, J

March 13, 2007
Note: Furnish C.C. of the order by 14.03.2007
(**B/o**)
DSK